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Anne E. Barschall

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application Ser. No.: 09/822,121

Group Art Unit: 2643

Filing Date: 3/30/2001

Examiner: WING F. CHAN

Attorney Docket Number PH-US 010080

Inventor Name(s): COLMENAREZ ET AL.

Confirmation #: 8881

Title: METHOD AND APPARATUS FOR AUDIO/IMAGE SPEAKER DETECTION AND LOCATOR

Mail Stop Appeal Brief  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

#### REPLY BRIEF

Sir:

This is a reply to the Examiner's Answer of June 3, 2005.

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Grouping of Claims

The Examiner newly mischaracterizes Appellant's brief as causing the claims to stand or fall together. The new regulations do not require a "grouping of claims" section. Moreover, Appellants have made substantial, separate arguments with respect to many claims. Accordingly, the claims do not stand or fall together.

Baker

Appellants omitted mention of the Baker reference from the brief in reliance on the Examiner's statements in a telephone conference that that reference would no longer be used. The interview summary referred to by the Examiner was apparently not provided to the undersigned in a timely fashion by the assignee of this application, so the undersigned was not aware of the Examiner's differing interpretation of the interview from that of the undersigned.

New points of argument by the Examiner

The Examiner newly mischaracterizes Appellant's knowledge of the Potts reference. Applicants attorneys submitted it to the PTO. This does not mean Applicants understand what the Examiner thinks it means.

The Examiner also newly misconstrues the burden of proof here. The burden of proof is upon the Examiner to make a *prima facie* case of obviousness, not upon the Appellant to correct and supplement the Examiner's rejection. Appellants respectfully submit that the Examiner's

new directions to read enormous sections of a reference fails to comply with 37 CFR 104. If the Examiner is changing the rejection, the Examiner should issue a new office action or at least indicate that he is making new grounds of rejection.

New explanations of rejection

The Examiner newly re-explains the rejection, which clarifies the issues. Appellants note that if the Examiner's rejections are ambiguous, poorly worded, or otherwise unclear, that is not Appellants' fault. Appellants accordingly respectfully submit that a new office action should be issued to allow Appellants more time to contact the inventors.

Appellants nevertheless contend that the suggestion to combine the idea of a electronic pan/tilt/zoom system with multi-modal integration comes from the application, not from the references, and that the combination of the references is accordingly impermissible hindsight. It is not obvious from the references how the EPTZ systems of Baker/Malkin could be integrated with the system of Potts. For instance, it is not at all clear how the camera motion sections of the face location algorithms, e.g. per pages 25-26 of Potts could be adjusted for an EPTZ system.

Arguments not presented below

The Examiner newly persists in failing to specify where the recitations of the various dependent claims are allegedly taught or suggested in the references and newly mischaracterizes the law with respect to whether he needs to set forth rejections. In the face of the ambiguity of the wording of the rejections, and the lack of rejections against the dependent claims, lack of

arguments below with respect to the dependent claims below is not particularly surprising. Appellants respectfully submit that the Examiner's new contention that these arguments should not be presented on appeal -- or that he can get away without specifying the grounds of rejection of the dependent claims -- is without basis in law.

#### Claims 1 & 10

Based on the newly refined rejection, Appellants would like to further note that claim 1 does not recite electronic pan/tilt/zoom. Accordingly, it is not clear why the Baker or Malkin reference would be applied to this claim.

The claim only recites a stationary image pickup device, an audio pickup device, and means for processing. The means for processing allows determination of direction in this context. This is an extraordinarily improved device compared with Potts. Potts only allowed for determination of direction in the context of a much more complex, expensive, and unreliable device that happens to include mechanical pan/tilt/zoom. The fact that this extraordinary result could be achieved using EPTZ comes from Applicants' disclosure. None of the references teaches that EPTZ could be used in a device that determines direction in a video conferencing context. Accordingly, the combination is a result of impermissible hindsight.

Claim 10 is a method claim, which differs somewhat from claim 1 in that it does recite "refined image signals," but not EPTZ. Again it is not clear why Baker or Malkin would be applied to this claim.

Claims 2 and 11

Based on the newly clarified rejection, Appellants would particularly like to emphasize the recitations of these two claims.

Claim 2 recites an audio source localization system, a computer vision person detection system, and a multimodal speaker detection system. Because the multimodal system is a separate element, the claimed system allows for a committee of experts approach. As set forth in the doctoral dissertation of inventor Gutta in 1998, and by other writers, the committee of experts approach is typically an advantageous approach to integrating information.

By contrast, the Potts system shows location being fed back and forth between video and audio systems. The complexity of coordinate conversion back and forth, per page 15 of the reference, makes it unlikely that this type of system could be readily adapted to electronic pan/tilt/zoom context. Moreover, the complexity of this back and forth approach shows the elegance and functional superiority of the distinct multi-modal integration system of claim 2. As a result, the structure of claim 2 is not taught or suggested by the references.

Claim 11 is similar to claim 2 in this respect.

Claims 9 and 25

In view of the clarification of the rejection, Applicants would like to point out how the system of these claims is enormously simplified with respect to Potts. The system has a stationary camera and only 2 microphones. By contrast, Potts requires a moving camera and 3 microphones. Applicants' system is clearly cheaper to manufacture and has less moving parts

that could break down in operation. While Chu shows two microphones, Chu does not explain how two microphones can be used together with a system like Potts. Cobbling together 3 existing devices to arrive at a revolutionized device could not be done without reference to Applicants' disclosure.

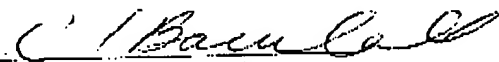
Again, claim 9 depends from claim 1, and therefore does not recite EPTZ.

Claim 25 similarly recites only two microphones and depends from claim 10.

Applicants respectfully submit that they have answered each issue raised by the Examiner and that the application is accordingly in condition for allowance. Such allowance is therefore respectfully requested.

**Please charge any fees other than the issue fee to deposit account 14-1270.**

Respectfully submitted,

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August 3, 2005